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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ORACLE USA, INC., a Colorado corporation;
ORACLE AMERICA, INC., a Delaware
corporation; and ORACLE INTERNATIONAL
CORPORATION, a California corporation,

Plaintiffs,

v.

RIMINI STREET, INC., a Nevada corporation;
AND SETH RAVIN, an individual,

Defendants.

Case No. 2:10-cv-0106-LRH-VCF

**ORACLE'S MOTION TO SEAL
PORTIONS OF ORACLE'S
MOTION FOR SANCTIONS
PURSUANT TO RULE 37 AND
SUPPORTING DOCUMENTS**

NOTICE OF MOTION AND MOTION

Pursuant to the Stipulated Protective Order governing confidentiality of documents entered by the Court on May 21, 2010, Dkt. 55 (“Protective Order”), Rules 5.2 and 26(c) of the Federal Rules of Civil Procedure, and Local Rule 10-5(b), Plaintiffs Oracle USA, Inc., Oracle America, Inc., and Oracle International Corporation (collectively “Oracle” or “Plaintiffs”) request that the Court order the Clerk of the Court to file under seal certain portions of Oracle’s Motion for Sanctions Pursuant to Rule 37 and Oracle’s Proposed Order, the Declaration of Barbra Frederiksen-Cross (“F-C Declaration”) and Exhibits 1 through 9 thereto, the Declaration of Sean P. Rodriguez (“Rodriguez Declaration”) and Exhibits B through D, F, G, and I through S thereto.

Public, redacted versions of the Motion and Supporting Documents were filed on July 10, 2020. ECF Nos. 1359-1361. Unredacted versions of these documents will be subsequently filed under seal with the Court and linked to the filing of this motion. This Motion is based on this Notice of Motion, the Memorandum of Points and Authorities herein, documents incorporated by reference, the entire record in this action, matters appropriate for judicial notice, and any evidence or argument presented on reply or at the hearing.

Federal Rule of Civil Procedure 26(c) provides broad discretion for a trial court to permit sealing of court documents for, *inter alia*, the protection of “a trade secret or other confidential research, development, or commercial information.” Fed. R. Civ. P. 26(c). For sealing requests relating to non-dispositive motions, such as Oracle’s Motion for Sanctions Pursuant to Rule 37, the presumption of public access to court filings may be overcome by a showing of good cause under Rule 26(c). *See Pintos v. Pacific Creditors Ass’n*, 605 F.3d 665, 678 (9th Cir. 2010); *Kamakana v. Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). *See also* ECF No. 317 (granting Oracle’s 2012 Motion to Seal Plaintiffs’ Motion for Evidentiary Sanctions for Spoliation for “good cause” shown). The Court has “broad latitude” under Rule 26(c) “to prevent disclosure of materials for many types of information, including, but not limited to” the commercial information described in Rule 26(c)’s text. *Phillips v. General Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2002) (citations omitted).

1 Oracle therefore requests that the Court seal Exhibits 1 and 2 to the Frederiksen-Cross
2 Declaration and the corresponding portions of the Motion and supporting documents because
3 they reflect non-public, technologically and commercially sensitive information relating to
4 Oracle's software, the public disclosure of which would create a significant risk of competitive
5 injury and particularized harm, and would prejudice Oracle. Oracle's competitors and potential
6 competitors could use such information to compete unfairly with Oracle.

7 In addition, Exhibits 1 through 9 to the Frederiksen-Cross Declaration and Exhibits B
8 through D, F, G, and I through S to the Rodriguez Declaration reflect information that Rimini
9 Street, Inc. ("Rimini") has designated as "Confidential" or "Highly Confidential – Attorneys'
10 Eyes Only" under the Protective Order.

11 The Protective Order states, "Counsel for any Designating Party may designate any
12 Discovery Material as 'Confidential Information' or 'Highly Confidential Information –
13 Attorneys' Eyes Only' under the terms of this Protective Order only if such counsel in good faith
14 believes that such Discovery Material contains such information and is subject to protection
15 under Federal Rule of Civil Procedure 26(c). The designation by any Designating Party of any
16 Discovery Material as 'Confidential Information' or 'Highly Confidential Information –
17 Attorneys' Eyes Only' shall constitute a representation that an attorney for the Designating Party
18 reasonably believes there is a valid basis for such designation." Protective Order ¶ 2.

19 Oracle therefore submits these exhibits, and corresponding portions of the Motion and
20 supporting documents, under seal pursuant to the Protective Order based on Rimini's
21 representation that there is a valid basis under the Protective Order for its confidentiality
22 designations. Oracle does not independently contend that these portions are subject to such
23 protection, but makes this request pursuant to paragraph 14 of the Protective Order. Oracle is not
24 in a position to provide further justification to show good cause to seal the documents.

25 Oracle has submitted all other portions of its Motion and Supporting Documents to the
26 Court's public files, which allows public access to all materials except for the items discussed
27 above. Accordingly, the request to seal is narrowly tailored. For the foregoing reasons, Oracle
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1 respectfully requests that the Court grant leave to file under seal the portions of the documents
2 discussed above.

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4 DATED: July 10, 2020

BOIES SCHILLER FLEXNER LLP

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6 By: /s/ Richard J. Pocker

7 Richard J. Pocker
8 Attorneys for Plaintiffs Oracle USA, Inc.,
9 Oracle America, Inc., and Oracle International
10 Corporation
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CERTIFICATE OF SERVICE

I certify that on July 10, 2020, I electronically transmitted the foregoing **MOTION TO SEAL PORTIONS OF ORACLE’S MOTION FOR SANCTIONS PURSUANT TO RULE 37 AND SUPPORTING DOCUMENTS** to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel in this matter; all counsel are CM/ECF registrants.

Dated: July 10, 2020

BOIES SCHILLER FLEXNER LLP

By: /s/ Ashleigh Jensen

Ashleigh Jensen

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ORACLE USA, INC., a Colorado corporation;
ORACLE AMERICA, INC., a Delaware
corporation; and ORACLE INTERNATIONAL
CORPORATION, a California corporation,

Plaintiffs,

v.

RIMINI STREET, INC., a Nevada corporation;
AND SETH RAVIN, an individual,

Defendants.

Case No. 2:10-cv-0106-LRH-VCf

**[PROPOSED] ORDER GRANTING
ORACLE'S MOTION TO SEAL
PORTIONS OF ORACLE'S
MOTION FOR SANCTIONS
PURSUANT TO RULE 37 AND
SUPPORTING DOCUMENTS**

[PROPOSED] ORDER

Pending before this Court is Plaintiffs Oracle USA, Inc., Oracle America, Inc., and Oracle International Corporation's (collectively "Oracle") Motion to Seal Portions of Oracle's Motion for Sanctions Pursuant to Rule 37 and Supporting Documents ("Motion to Seal"). Federal Rule of Civil Procedure 26(c) provides broad discretion for a trial court to permit sealing of court documents for, *inter alia*, the protection of "a trade secret or other confidential research, development, or commercial information." Fed. R. Civ. P. 26(c). Having considered Oracle's Motion to Seal and supporting materials, good cause having been shown:

IT IS HEREBY ORDERED THAT: Oracle's Motion to Seal is GRANTED. The Clerk of the Court shall file under seal the materials specified in Oracle's Motion.

IT IS SO ORDERED.

DATED:

By: _____